

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHALLA C. ALFARO BRITTANY,
Plaintiff,
v.
THE STUDIO @ HOTEL BERRY,
Defendant.

Case No. 2:24-cv-3395-DJC-JDP (PS)

FINDINGS AND RECOMMENDATIONS

Plaintiff, proceeding in pro se, has requested leave to proceed *in forma pauperis* and has submitted an affidavit in support of her application, as required by 28 U.S.C. § 1915(a)(1). ECF No. 2.

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). This court also requires a \$55 administrative fee. The court may authorize the commencement of an action without prepayment of fees and costs or security therefor, by a person who submits an affidavit showing that he is unable to pay such costs or give security therefor. 28 U.S.C. § 1915(a)(1). An *in forma pauperis* applicant must demonstrate that because of her poverty, she cannot meet court costs and still provide herself and her dependents with the necessities of life. *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 (11th Cir. 2004) (affidavit is sufficient if it represents that the litigant is “unable to pay for the court fees and costs, and to provide necessities for himself and his dependents”) (citing *Adkins v.*

1 *E.I. Du Pont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948); *see also, Sears, Roebuck & Co. v.*
2 *Charles W. Sears Real Estate, Inc.*, 865 F.2d 22, 23 (2d Cir. 1988) (denying *in forma pauperis*
3 status where applicant had a net income of approximately \$20,000).

4 Plaintiff's affidavit indicates that her annual gross income is \$91,604.00, and she has
5 \$139,000.00 in a bank account. ECF No. 2 at 1-2. She further states that she has multiple adult
6 children to whom she provides some financial assistance. *Id.* at 2. Based on those averments, I
7 find that plaintiff has failed to demonstrate that she has insufficient assets to pay the filing fee and
8 costs and provide the necessities of life to herself and her dependents.

9 Accordingly, it is hereby RECOMMENDED that:

10 1. Plaintiff's application to proceed *in forma pauperis*, ECF No. 2, be denied.
11 2. Plaintiff be given twenty-one from the date of any order adopting these findings and
12 recommendations to pay the filing fee of \$405.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
15 service of these findings and recommendations, any party may file written objections with the
16 court and serve a copy on all parties. Any such document should be captioned "Objections to
17 Magistrate Judge's Findings and Recommendations," and any response shall be served and filed
18 within fourteen days of service of the objections. The parties are advised that failure to file
19 objections within the specified time may waive the right to appeal the District Court's order. *See*
20 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
21 1991).

22
23 IT IS SO ORDERED.

24 Dated: January 27, 2025


25 JEREMY D. PETERSON
26 UNITED STATES MAGISTRATE JUDGE
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